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IN THE

Supreme Court of the United States

October Term, 1962.
No. 222

Case No. 17235

PENSICK & GORDON, INC., *Appellant,*

vs.

CALIFORNIA MOTOR EXPRESS, *et al.,* *Appellees.*

Case No. 17380

PENSICK & GORDON, INC., a California corporation, *Appellant,*

vs.

CALIFORNIA MOTOR EXPRESS, LIMITED, a corporation, *et al.,* *Appellees.*

Brief for the Respondents California Motor Express, Ltd., Delta Lines, Inc., Desert Express, Merchants Express of California, Valley Motor Lines, Inc., and Western Truck Lines, Ltd., Appellees in No. 17235, and

Braswell Motor Freight Lines, Inc., Hopper Truck Lines, Illinois-California Express, Inc., and Denver-Chicago Motor Trucking Co., Inc., Appellees in No. 17380,

In Reply to Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

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In Reply to Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Opinions Below.

The opinion of the Court of Appeals for the Ninth Circuit, copy of which is appended to the Petition as an appendix is officially reported at 302 F. 2d 391. The opinion of the District Court dismissing the complaint in No. 17235 is unreported. Copy of said opinion of the District Court is appended hereto as Appendix A. There is no opinion of the District Court in No. 17380.

Questions Presented.

These Respondents are dissatisfied with the Petitioner's presentation of the "Questions Presented." Notwitstanding the fact that the Court of Appeal expressly stated its decision should not be so interpreted, Petitioner contends the Court of Appeals has decided the issue of immunity of federally certificated carriers to all kinds of damage suits by shippers and the jurisdictional questions raised by these and other Respondents in the courts below arising out of the labor aspects of the controversy.

The substantive issue which the petitioner sought to raise in this case was whether or not the respondent motor common carriers had failed to provide service to petitioner as a shipper on reasonable terms and without unjust discrimination. The sole issue decided by the Court of Appeals was that the District Court did not have jurisdiction to hear and determine this controversy because of the provisions of the Interstate Commerce Act, Part II (49 U. S. C. §§301-327).

Respondents submit that the only questions here presented are these:

1. Do Sections 216(b) and (d) of the Interstate Commerce Act, Part II (49 U. S. C. §§316(b) and (d)) establish a private legal right in a shipper, justiciable in the District Court, for reparation of injury allegedly resulting from past unreasonable and unjust discrimination in service by motor common carriers in interstate commerce?

2. Did the enactment of the Interstate Commerce Act, Part II (49 U. S. C. §§301-327), extinguish any judicially enforceable legal right which a shipper may have had to recover damages for past unreasonable and unjust discrimination in service by motor common carriers in interstate commerce?

Statutes Involved.

Under these Respondents' view of the questions presented the Interstate Commerce Act, Part II (49 U. S. C. §§301-327) in its entirety is involved. The provisions thereof most directly relevant are Sections 204(c), 204a(2), 216(b), 216(d), 216(e), 216(j) and 219 (49 U. S. C. §§304(c), 304a(2), 316(b), 316(d), 316(e), 316(j) and 319). The sections specifically designated are reproduced in Appendix B hereof.

Statement of the Case.

In its basic outline Petitioner's "Statement of the Case" is essentially accurate. There are, however, certain additional facts which should be noted to place the issues raised by the petition in proper perspective.

The gravamen of Petitioner's action against all of these Respondents is the alleged unjust and unreasonable character of claimed discrimination in motor common carrier service. Petitioner's pleadings assert breach of duty in general terms. However, from affidavits filed by the several Respondents in support of their motions to dismiss it appears that the period during which it is alleged the failures in carrier service occurred coincided exactly with a period during which the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers (hereinafter called "Teamsters") was maintaining a picket line at Petitioner's place of business related to a then existing labor controversy between Petitioner and the Teamsters at Petitioner's business location [1. Tr. 38-39, 46; 2. Tr. 88-89].[1] During the period involved driver employees of these Respondents, and other carriers, members of the Teamsters union, declined to pass from the public streets through the picket line to accomplish pickup or delivery at the loading platform on Petitioner's premises [1. Tr. 28-30, 40-41, 65-66; 2. Tr. 78-79, 80-82]. All other aspects of carrier service were performed [1. Tr. 40-41, 61, 62-64; 2. Tr. 78-82].

In both the original and amended complaint jurisdiction was asserted as to all of these Respondents under 28 U. S. C. §1337 on the premise that the Interstate Commerce Act, Part II, Sections 216(b) and (d) (49 U. S. C. §§316(b)(d)) authorize a shipper to bring a court action for damages for past unjust and unreasonable discriminations in service. Jurisdiction was claimed

[1]The references "1. Tr." and "2. Tr." refer to the records on appeal in Case No. 17235 and 17380 respectively.

as to the Respondents named in the amended complaint on the additional grounds of diversity under 28 U. S. C. §1332 on the premise that a right of court action for damages for past unjust and unreasonable discriminations in service exists apart from statute.

Although additional grounds were urged before the Court of Appeals in support of the order of the District Court dismissing the action as to all of these Respondents, the decision of the Court of Appeals was based upon the ground that the Interstate Commerce Act, Part II sets forth a comprehensive and all-inclusive scheme for the federal regulation of common motor carriers; that under the statutory scheme of this Act only the Interstate Commerce Commission can decide in the first instance whether any alleged act of disservice on the part of carriers was unreasonable or unjustly discriminatory and that courts are without authority to make such determinations; that the determination as to whether or not disservice by carriers is unreasonable or unjustly discriminatory is an administrative question and that a remedy in courts for past conduct alleged to be unreasonable and unjust does not exist under the statutory scheme of the Interstate Commerce Act. The Court of Appeals expressly declined to consider or decide what common law actions, if any, may have survived the passage of the Interstate Commerce Act. It also expressly declined to consider or pass upon the merits of the contention of the Respondents that the District Court was without jurisdiction because the controversy between the parties raised issues which are within the exclusive primary jurisdiction of the National Labor Relations Board.

ARGUMENT.

The Decision of the Court of Appeals Is Predicated Upon and Is in Full Conformity With Applicable Decisions of This Court Dealing With the Question Involved.

The question presented to the Court of Appeals was whether or not, under the statutory scheme of the Interstate Commerce Act, Part II the District Court had jurisdiction to entertain an action by a shipper seeking reparation for past unreasonable and unjust discriminations in service by motor common carriers. The Court of Appeals has decided the District Court did not have jurisdiction to entertain and decide such litigation. Its decision is predicated upon the decision of this Court in *T.I.M.E. Inc. v. United States*, 359 U. S. 464, 3 L. Ed. 2d 952, 79 S. Ct. 904 (1959), *Local 1976, U. B. Carpenters, etc. v. N. L. R. B.*, 357 U. S. 93, 2 L. Ed. 2d 1186, 78 S. Ct. 1011 (1958). Also mentioned were *Consolidated Freightways, Inc. v. United Truck Lines, Inc.*, 216 F. 2d 543 (CA 9, 1954; Cert. Den. 349 U. S. 905) and a companion case by the same name decided by the Oregon Supreme Court, 216 Ore. 515, 330 P. 2d 522 (Cert. Den. 355 U. S. 1001).

In *T.I.M.E. Inc. v. United States, supra*, this Court was called up to decide whether or not, under the Interstate Commerce Act, Part II, a shipper of goods by certificated motor carrier could challenge in post shipment litigation the reasonableness of a carrier's charges which were made in accordance with the tariff governing the shipment. There, as in the instant case, the parties contending for the jurisdiction of the District Court urged (a) that a cause of action in a shipper injured by violation of the duties prescribed in §§216(b)

and (d) of the Interstate Commerce Act, Part II (49 U. S. C. §316(b), (d)) was necessarily implied under said Act; and (b) that even if such Act did not grant the right, it must at least be read to preserve a pre-existing common law right of the same kind. In the *T.I.M.E., Inc.* case the the damages claimed arose from the alleged unreasonableness of the charges made by the carrier for services performed. Noting that provisions in Part I and III of the Interstate Commerce Act expressly preserving a right of action by a shipper for reparation of injuries sustained by reason of past unlawful action by a carrier were omitted in the enactment of Part II and that attempts at varying times subsequent to the first enactment of the Motor Carrier Act to insert such provisions therein have also been unsuccessful, this Court held that the Interstate Commerce Act past Part II did not establish a justiciable legal right in a shipper to recover or resist past motor carrier charges alleged to have been unreasonable. In *T.I.M.E., Inc., supra,* this Court also held a judicial remedy in respect of unreasonable past rates did not survive the passage of the Interstate Commerce Act, Part II.

Petitioner urges the holding of this Court in *T.I.M.E., Inc. v. United States, supra,* must be restricted to the specific fact situation there presented, and that the rules as to jurisdiction therein stated are not here applicable because the unjust discrimination charged relates to facilities rather than to price. The contention is not tenable.

As the Court of Appeals noted, relying on the holding of this Court in *Local 1976, U. B. Carpenters, etc., v. N. L. R. B.*, 357 U. S. 93, 2 L. Ed. 2d 1186, 78 S. Ct. 1011 (1958), the question of unreasonableness and un-

just discrimination in service is an administrative question calling for a determination of the carrier's duty in the framework of the National Transportation Policy, a subject within the exclusive competence of the Interstate Commerce Commission. Discriminations in price and in facilities are but the two sides of the same coin. On the jurisdictional question how the discrimination arises is not important. The significant consideration is the Congressional intent as to the forum in which the question of reasonableness of carrier conduct in its primary service relationships with shippers is to be determined.

In cases arising under Part I of the Interstate Commerce Act this Court has consistently held, whether the alleged discrimination of carrier conduct relates to facilities furnished or the price charged, the question of justness and reasonableness is one within the exclusive competence of the Interstate Commerce Commission.

Armour & Co. v. Alton R.R. Co., 312 U. S. 195, 85 L. Ed. 771, 61 S. Ct. 498 (1941);

Loomis v. Lehigh Valley Railroad Co., 240 U. S. 43, 60 L. Ed. 517 (1916);

Midland Valley Railroad Co. v. Barkley, 276 U. S. 482, 72 L. Ed. 664, 48 S. Ct. 342 (1928).

Thus, the conclusion of the Court of Appeals that the question of jurisdiction to decide issues of reasonableness in service facilities furnished is the same as that presented when the question is reasonableness in the charges made is simply recognition of a rule long established by this Court.

The statutory statement of the carrier's duty to act without discrimination both as to price and as to facilities furnished is contained in the same sections of Part II, of the Interstate Commerce Act and is expressed in substantially identical language.

> *Interstate Commerce Act, Part II*, §216(b)(d) (49 U. S. C. §216(b)(d)).

It is inconceivable that Congress would have so grouped these declarations of carrier obligations had it intended the context to be a "criterion of administrative application" as to reasonableness of rates and a declaration of "justiciable legal right" when the issue is reasonableness in the character of facilities provided.

Petitioner suggests that the action of this Court in granting a writ of certiorari in the case of *Hewitt-Robbins, Inc. v. Eastern Freight Ways, Inc.*, 293 F. 2d 205 (C. A. 2, 1962) is an indication that the Court of Appeals for the Ninth Circuit has applied *T.I.M.E, Inc. v. United States, supra*, improperly in the present case. In *Hewitt-Robbins, Inc., supra*, the shipper had tendered to the carrier numerous unrouted shipments for movement between two points, both of which were in the same state. The carrier, having both intrastate and interstate routes had handled the traffic via the longer and more expensive interstate route. The shipper sought to recover the difference between the charges via the intrastate and the interstate routes on the premise that the routing via the interstate route constituted an unreasonable routing practice in violation of 49 U. S. C. §316. The Court of Appeals, one judge dissenting, sustained an order of the District Court dismissing the action upon the premise that the substantive issue was

the reasonableness of the routing practices and that under the holding in *T.I.M.E., Inc. v. United States, supra,* the District Court was without jurisdiction to decide this substantive issue. In the dissenting opinion in *Hewitt-Robbins,* the suggestion is made that the contract between the parties was for intrastate carriage of goods, and that the substantive issue was whether the carrier could unilaterally convert the transportation into an interstate movement in the face of the contractual obligation. The substantive issue in *Hewitt-Robbins* is thus open to two possible interpretations. In one posture of the case, the question of reasonableness of interstate transportation practices would be presented and in the other it would not. The issue was not, therefore, as petitioner here suggests, the question of the limitation of the rule in the *T.I.M.E., Inc.* case to questions involving reasonableness of charges as compared with reasonableness of service, both of which are regulated by, Interstate Commerce Act, Part II, §216, but rather whether the question of reasonableness and unjust discrimination is involved in the case at all. No such situation is here presented. In the instant case, appellant has conceded from the outset that the ultimate substantive issue in the controversy is whether or not the carrier has failed to provide service on reasonable terms and without unjust discrimination.

The Decision of the Court of Appeals Below Is in No Way in Conflict With Decisions of Courts of Appeals in Different Circuits.

In support of the petition, it is contended that the decision of the Court of Appeals in this case is in conflict with two decisions of the Court of Appeals for the Eighth Circuit. The cases to which reference is made are:

Meier & Pohlman Furniture Co. v. Gibbons, 233 F. 2d 296 (CA 8, 1956), (Cert. Den. 352 U. S. 879);

Minneapolis, etc. Railway Co. v. Pacific Gamble-Robinson Co., 215 F. 2d 126 (CA 8, 1954).

The sole question decided by the Court of Appeals for the Ninth Circuit in the present case was the jurisdiction of the District Court to hear and determine the claim of Petitioner that it had been damaged by reason of past allegedly unreasonable and unjust discriminations in motor carrier service. Neither of the cases in the Eighth Circuit considered that issue. Both were decided prior to the decision of this Court in *T.I.M.E., Inc. v. United States, supra.*

Meier & Pohlman, supra, did involve a fact situation similar in many of its aspects to that described in the pleadings and affidavits in this case. However, the appeal in *Meier & Pohlman* was from a judgment on the merits in favor of the defendant carriers and, beyond prefunctory reference to 49 U. S. C. A. §§9 and 319 and 28 U. S. C. A. §§1331 and 1337, the subject of

jurisdiction was nowhere discussed. The Court of Appeals for the Eighth Circuit did state that until reasonableness of rules, regulations and tariffs of carriers has been determined by the Interstate Commerce Commission shippers may not maintain an action in court against a carrier based upon a claim of unreasonableness. This language is consistent, rather than inconsistent, with the interpretation placed upon the Interstate Commerce Act, Part II by the Court of Appeals for the Ninth Circuit in the present case wherein the question of jurisdiction was raised by the parties.

Minneapolis, etc. Railway Co. v. Pacific Gamble-Robinson Co., supra, was an action against a railroad subject to the Interstate Commerce Act, Part I. The present action, as it pertains to these Respondents, involves only Part II of said Act. As this Court noted in *T.I.M.E., Inc. v. United States, supra,* there is a significant difference between Part I and Part II of the Interstate Commerce Act in that Part I contains provisions expressly granting a right of shippers to bring actions in the District Court for reparations for past unreasonable conduct on the part of railroads whereas Part II regulating motor carriers contains no comparable provisions. Obviously in these circumstances, the decision of the Court of Appeals for the Eighth Circuit in *Minneapolis, etc. Railway Co. v. Pacific Gamble-Robinson Co., supra,* cannot possibly be construed as conflicting with the decisions of the Court of Appeals for the Ninth Circuit in the present case.

Petitioner also suggests that decisions of District Courts in *Merchandise Warehouse Company v. A.B.C. Freight Forwarding Co.,* 165 Fed. Supp. 67 (1958) and *Quaker State Motor Parts Co. v. Interstate Motor*

Freight, 148 Fed. Supp. 226 (1957), are conflicting with the conclusions reached by the Court of Appeals in the instant case. Inconsistency between decisions of District Courts and a decision of the Court of Appeals does not form a basis for granting a writ of certiorari.

Rules of the U. S. Supreme Court, Rule 19.1(b).

Further, in the two last cited cases, as in *Meier & Pohlman, supra*, mention of the subject of jurisdiction of the District Court to hear and determine the case was perfunctory. In neither case did the District Court consider the issues of statutory interpretation discussed both in *T.I.M.E., Inc. v. United States, supra* and by the Court of Appeals for the Ninth Circuit here.

The Decision of the Court of Appeals Raises No Questions of Federal Law Not Already Settled by This Court.

Petitioner views the decision of the Court of Appeals as placing in issue:

(a) The jurisdiction of courts in damage suits of "virtually any kind" brought against federally certificated carriers by shippers, and

(b) The question of the jurisdiction of federal courts to determine the respective rights of carriers and shippers in cases in which a failure in carrier service is the result of the existence of a picket line at shipper's place of business.

As the Court of Appeals noted in the concluding portions of its opinion, the sole issue decided was the jurisdiction of the District Court to hear and determine the issue as to whether or not the respondent motor carriers

had failed to provide service to a shipper on reasonable terms and without unjust discrimination. In reaching its conclusion that the District Court was without jurisdiction to proceed, the Court of Appeals considered only the issues raised under the Interstate Commerce Act, Part II, as applied to the substantive controversy presented. The Court of Appeals stated specifically it was declining to pass upon the question of District Court jurisdiction in any other fact situation, and that it was not deciding the issue as to whether or not the controversy raised issues within the exclusive primary jurisdiction of the National Labor Relations Board.

It is a usual situation for a Court of Appeals presented with several issues, each of which would be dispositive of the action, to rest its determination upon one such issue and to decline to pass upon the others. On review this Court has consistently restricted itself to the issues actually determined by the Court of Appeals. In those instances in which this Court has found the Court of Appeals erred in its conclusions on the issues decided the procedure has been to remand to the lower court for its determination of the issues not passed upon in the first instance.

Hess v. United States, 361 U. S. 314, 4 L. Ed. 2d 305, 80 S. Ct. 341 (1960);

Barr v. Matteo, 355 U. S. 171, 2 L. Ed. 2d 179, 78 S. Ct. 204 (1957);

Mitchell v. Di Mario Jewelry, Inc., 361 U. S. 288, 4 L. Ed. 2d 323, 80 S. Ct. 332 (1960);

Bank of America National Trust & Savings Association v. Parnell, 352 U. S. 29, 1 L. Ed. 2d 93, 77 S. Ct. 119 (1956).

It is a necessary correlary of these rules that matters not passed upon by the Court of Appeals cannot properly form the basis for the grant of a writ of certiorari.

Conclusion.

For all the foregoing reasons, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

RUSSELL & SCHUREMAN,

By THEODORE W. RUSSELL,

Attorney for Respondents California Motor Express, Ltd., Delta Lines, Inc., Desert Express, Merchants Express of California, Valley Motor Lines, Inc., and Western Truck Lines, Ltd., Appellees in No. 17235, and Braswell Motor Freight Lines, Inc., Hopper Truck Lines, Illinois-California Express, Inc., and Denver-Chicago Motor Trucking Co., Inc., Appellees in No. 17380

APPENDIX A.

ORDER DISMISSING ACTION

It appearing to the court that:

(1) jurisdiction of this court is invoked upon the ground of diversity of citizenship (28 U. S. C. A. 1332) and the Motor Carrier Act (49 U. S. C. A. sections 301 to 327), but diversity of citizenship does not appear from the record to exist;

(2) plaintiff asserts no claim or cause of action arising under an act of Congress, as the Motor Carrier Act does not provide any private remedy for a violation of any of its provisions. (Consolidated Freightways v. United Trucklines (CA 9) 216 F. 2 543).

It is Now Ordered that the action is dismissed and that this dismissal shall not operate as an adjudication on the merits (Federal Rules of Civil Procedure, 41(b)).

It Is Further Ordered that the plaintiff have 20 days from the date hereof to file an amended complaint if it be so advised.

It Is Further Ordered that the clerk of the court this day serve a copy of this order by United States mail upon the attorneys for each of the parties appearing in this action.

Dated: November 1st, 1960.

/s/ WM. M. BYRNE,
United States District Judge.

APPENDIX B.

Sections 204(c), 204a(2), 216(b), 216(d), 216(e), 216(j), and 219 [49 U. S. C. §§304(c), 304a(2), 316(b), 316(d), 316(e), 316(j), and 319] are set forth below.

Section 204(c) [49 U. S. C. §304(c)]:

"Upon complaint in writing to the Commission by any person, State Board, organization, or body politic, or upon its own initiative without complaint, the Commission may investigate whether any motor carrier or broker has failed to comply with any provision of this chapter, or with any requirement established pursuant thereto. If the Commission, after notice and hearing, finds upon any such investigation that the motor carrier or broker has failed to comply with any such provision or requirement, the Commission shall issue an appropriate order to compel the carrier or broker to comply therewith. Whenever the Commission is of opinion that any complaint does not state reasonable grounds for investigation and action on its part, it may dismiss such complaint."

Section 204a(2) [49 U. S. C. §304a(2)]:

"For recovery of overcharges, action at law shall be begun against common carriers by motor vehicle subject to this chapter within three years from the time the cause of action accrues, and not after, subject to paragraph (3) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation said period shall be extended to include six months from the time notice

in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice."

Section 216(b) [49 U. S. C. §316(b)]:

"It shall be the duty of every common carrier of property by motor vehicle to provide safe and adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce; to establish, observe, and enforce just and reasonable rates, charges, and classifications, and just and reasonable regulations and practices relating thereto and to the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, and all other matters relating to or connected with the transportation of property in interstate or foreign commerce."

Section 216(d) [49 U. S. C. §316(d)]:

"All charges made for any service rendered or to be rendered by any common carrier by motor vehicle engaged in interstate or foreign commerce in the transportation of passengers or property as aforesaid or in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful. It shall be unlawful for any common carrier by motor vehicle engaged in interstate or foreign commerce to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, gateway, locality, region, district, territory, or description of traffic in any respect whatsoever; or to sub-

ject any particular person, port, gateway, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however,* That this subsection shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description."

Section 216(e) [49 U. S. C. §316(e)]:

"Any person, State board, organization, or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section or of section 217 of this title. Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by motor vehicle or by any common carrier or carriers by motor vehicle in conjunction with any common carrier or carriers by railroad and/or express, and/or water for transportation in interstate or foreign commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be ob-

served, or the lawful classification, rule, regulation, or practice thereafter to be made effective and the Commission shall, whenever deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or upon its own initiative without a complaint, establish through routes and joint rates, fares, charges, regulations, or practices, applicable to the transportation of passengers by common carriers by motor vehicle, or the maxima or minima, or maxima and minima, to be charged, and the terms and conditions under which such through routes shall be operated: *Provided, however*, That nothing in this chapter shall empower the Commission to prescribe, or in any manner regulate, the rate, fare, or charge for intrastate transportation, or for any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose whatever."

Section 216(j) [49 U. S. C. §316(j)]:

"Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith."

Section 219 [49 U. S. C. §319]:

"The provisions of section 20(11) and (12) of this title, together with such other provisions of chapter 1 of this title (including penalties) as may be necessary for the enforcement of such provisions, shall apply with respect to common carriers by motor vehicle with like force and effect as in the case of those persons to which such provisions are specifically applicable."